

*Status: Point in time view as at 01/07/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Enterprise and New Towns (Scotland) Act 1990. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 1

#### CONSTITUTION AND PROCEEDINGS ETC. OF SCOTTISH ENTERPRISE AND HIGHLANDS AND ISLANDS ENTERPRISE

##### *Incorporation*

- 1 Each of the two bodies—
- (a) shall be a body corporate; and
  - (b) shall have a common seal.

##### *Status*

<sup>F12</sup> .....

##### **Textual Amendments**

- F1** Sch. 1 para. 2 repealed (1.7.2011) by [Bribery Act 2010 \(c. 23\)](#), s. 19(1), [Sch. 2](#) (with ss. 16, 19(5)); [S.I. 2011/1418](#), art. 2

- 3 Neither of the two bodies shall—
- (a) be regarded as a servant or agent of the Crown;
  - (b) have any status, immunity or privilege of the Crown;
  - (c) be exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local,
- and their property shall not be regarded as property of, or held on behalf of, the Crown.
- 4 Scottish Enterprise shall be treated for all purposes of corporation tax as if it were the same person as the Scottish Development Agency.

##### *Membership*

- 5 The members of Scottish Enterprise shall be—
- (a) not less than eight, nor more than eleven, persons appointed under this subparagraph by the Secretary of State (regard being had to the principle that equality of opportunity should be promoted as between men and women) from persons who appear to him to have knowledge or experience relevant to the discharge of the functions of the body; and
  - (b) the person who is for the time being the chief executive of the body.
- 6 The members of Highlands and Islands Enterprise shall be—
- (a) not less than six, nor more than eleven, persons appointed under this paragraph by the Secretary of State (regard being had to the principle mentioned in paragraph 5(a) above) from persons who appear to him to

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- have knowledge or experience relevant to the discharge of the functions of the body; and
- (b) the person who is for the time being the chief executive of the body.
- 7 The Secretary of State shall satisfy himself—
- (a) before he appoints a person under paragraph 5(a) or 6(a) above, that the person has no financial or other interest likely to affect prejudicially performance as a member of the body in question;
- (b) from time to time that each person so appointed continues, and has continued, to have no such interest.
- 8 A person in respect of whom the Secretary of State requires to be satisfied as is mentioned in paragraph 7(b) above shall, whenever requested by the Secretary of State to do so, furnish the Secretary of State with such information as the Secretary of State may consider necessary for the purposes of that requirement.
- 9 Subject to the provisions of this paragraph and of paragraphs 10 and 11 below, each member of either body other than its chief executive—
- (a) shall hold and vacate office in accordance with the terms of the instrument under which he is appointed a member;
- (b) may, by written notice to the Secretary of State, resign membership; and
- (c) after ceasing to hold office shall be eligible for reappointment to the body.
- 10 The Secretary of State may remove a member, other than the chief executive, of either body from office if satisfied that the member—
- (a) has been adjudged bankrupt, has made an arrangement with his creditors, has had his estate sequestrated, or has granted a trust deed for his creditors or a composition contract;
- (b) is incapacitated by physical or mental illness;
- (c) has been absent from meetings of the body in question for a period longer than three consecutive months without the permission of that body; or
- (d) is otherwise unable or unfit to discharge his functions as a member or is unsuitable to continue as a member.

#### *Chairmen and Deputy Chairmen*

- 11 (1) In respect of each of the bodies—
- (a) the Secretary of State shall appoint one of its members to be chairman; and
- (b) after consulting the chairman, may appoint one (or more) of its members to be deputy chairman (or deputy chairmen),
- and a chairman, or as the case may be deputy chairman, shall hold and vacate the office in question in accordance with the terms of the instrument under which he is appointed to that office.
- (2) A member of either body may resign as chairman or deputy chairman of that body by written notice to the Secretary of State; but a chairman or deputy chairman of either body who ceases to be a member of that body (whether or not on giving notice under paragraph 9(b) above) ceases to be its chairman or deputy chairman.
- (3) Where a member of either body becomes, or ceases to be, the chairman or a deputy chairman of the body in question, the Secretary of State may vary the terms of the instrument under which he is appointed a member so as to alter the date on which office as a member is to be vacated.

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### *Remuneration, Allowances and Pensions*

- 12 (1) Each of the bodies shall pay to its chairman, deputy chairman (or deputy chairmen) and members, other than the chief executive—
- (a) such remuneration as the Secretary of State may <sup>F2</sup> . . . determine; and
  - (b) such reasonable allowances as may be so determined in respect of expenses properly incurred by them in the performance of their duties.
- (2) Where a person (other than a chief executive) ceases to be a member of one or other of the bodies otherwise than on the expiry of his term of office and it appears to the Secretary of State that there are special circumstances which might make it right for the person to receive compensation, the Secretary of State may <sup>F2</sup> . . . direct the body in question to pay to the person such amount as the Secretary of State may <sup>F2</sup> . . . determine.

#### **Textual Amendments**

**F2** Words in [Sch. 1 para. 12\(1\)\(2\)](#) repealed (1.7.1999) by [S.I. 1999/1820, arts. 1\(2\), 4, Sch. 2 Pt. I para. 100\(8\)](#), Pt. IV

- 13 The Secretary of State may <sup>F3</sup> . . . determine that in respect of any office held by a person as chairman, deputy chairman or member (other than the chief executive) of either of the two bodies, the body in question shall pay—
- (a) such pension, allowance or gratuity to, or in respect of, that person on his retirement or death;
  - (b) such contribution or other payments towards provision for such pension, allowance or gratuity,
- as may be so determined.

#### **Textual Amendments**

**F3** Words in [Sch. 1 para. 13](#) repealed (1.7.1999) by [S.I. 1999/1820, arts. 1\(2\), 4, Sch. 2 Pt. I para. 100\(8\)](#), Pt. IV

### *Staff*

- 14 In respect of each of the bodies, the Secretary of State shall, after consultation with its chairman (or chairman designate) make the first appointment of its chief executive on such terms and conditions as the Secretary of State may <sup>F4</sup> . . . determine; and thereafter the body in question may, with the approval of the Secretary of State, make subsequent appointments to the office of chief executive on such terms and conditions as it may, with the approval of the Secretary of State <sup>F4</sup> . . . determine.

#### **Textual Amendments**

**F4** Words in [Sch. 1 para. 14](#) repealed (1.7.1999) by [S.I. 1999/1820, arts. 1\(2\), 4, Sch. 2 Pt. I para. 100\(8\)](#), Pt. IV

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- 15 (1) Subject to paragraph 16 below, each of the bodies may appoint on such terms and conditions as it may, with the approval of the Secretary of State <sup>F5</sup> . . . determine, such other employees as it thinks fit.
- (2) Each of the bodies shall, as regards such of its employees as it may with the approval of the Secretary of State <sup>F5</sup> . . . determine, make such arrangements for providing pensions, allowances or gratuities (to or in respect of those employees) as it may determine; and such arrangements may include the establishment and administration, by the body in question or otherwise, of one or more pension schemes.
- (3) The reference in sub-paragraph (2) above to the provision of pensions, allowances or gratuities includes a reference to their provision by way of compensation for loss of office or employment or loss or diminution of emoluments.
- (4) If a person employed by either body becomes a member of the body and was by virtue of that employment a participant in a pension scheme administered by the body for the benefit of its employees the body may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee whether or not any benefits are to be payable to or in respect of him by virtue of paragraph 13 above; but if the body does so determine, then any discretion as to the benefits payable to or in respect of the person which the scheme confers on it shall be exercisable only with the consent of the Secretary of State <sup>F5</sup> . . .

#### Textual Amendments

**F5** Words in Sch. 1, para. 15(1)(2) and (4) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. I, para. 100(8), Pt. IV

- 16 (1) Not later than such date as the Secretary of State may determine—
- (a) Scottish Enterprise shall make an offer of employment by it to each person employed immediately before that date—
- (i) by the Scottish Development Agency;
  - (ii) by the Training Agency to work wholly or mainly in such part of Scotland as is outwith the area mentioned in section 21(1) of this Act;
- (b) Highlands and Islands Enterprise shall make an offer of employment by it to each person employed immediately before that date—
- (i) by the Highlands and Islands Development Board;
  - (ii) by the Training Agency to work wholly or mainly within the area so mentioned,

except that if such a person by written notice to Scottish Enterprise, or as the case may be to Highlands and Islands Enterprise, has intimated that he does not require such an offer of employment to be made by the date so determined and, in the case of a person mentioned in paragraph (a)(ii) or (b) (ii) above, has not elected secondment under sub-paragraph (6) below, such an offer may instead be made under this sub-paragraph at a later date but, subject to sub-paragraph (8) below, shall in any event be so made within seven days of receipt, before the first transfer date by Scottish Enterprise or before the second transfer date by Highlands and Islands Enterprise, of any subsequent written notice from the person requiring that it be made.

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- (2) In this and the following paragraph “the Training Agency” means the part of the department of the Secretary of State for Employment which is so known, other than so much of that part as is known either as the Skills Training Agency or as the Employment Rehabilitation Service.
- (3) The terms of any offer under sub-paragraph (1) above shall be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.
- (4) Any question as to what persons are employed as mentioned in sub-paragraph (1) above and, in respect of any such person, the body by which an offer is (subject to the exception mentioned in the sub-paragraph) to be made under the sub-paragraph shall be determined by the Secretary of State, whose decision in the matter in question shall be final.
- (5) For the purposes of sub-paragraph (3) above, no account shall be taken of the fact that employment with Scottish Enterprise or Highlands and Islands Enterprise is not employment in the service of the Crown.
- (6) Instead of forthwith accepting or declining an offer made to him under sub-paragraph (1)(a)(ii) or (b)(ii) above, or if he has given notice that he does not require such an offer and none has been made, a person may (without prejudice to sub-paragraph (7) below) elect to be seconded to Scottish Enterprise, or as the case may be Highlands and Islands Enterprise, on such terms as the body in question may agree with him and with the Training Agency; but any such secondment shall end not later than three years after—
  - (a) in the case of secondment to Scottish Enterprise, the first transfer date; and
  - (b) in the case of secondment to Highlands and Islands Enterprise, the second transfer date,and if during the period of secondment the person by written notice to Scottish Enterprise, or as the case may be Highlands and Islands Enterprise, requires that such an offer be made (whether or not the secondment followed such an offer), the body in question shall within thirty days of receiving the notice comply with the requirement.
- (7) An offer under sub-paragraph (1) above—
  - (a) where made before the date determined under sub-paragraph (1) above, shall not be revocable during the period of three months commencing with the date on which made;
  - (b) where made after the date so determined, shall not be revocable before—
    - (i) in the case of an offer by Scottish Enterprise, the first transfer date;
    - (ii) in the case of an offer by Highlands and Islands Enterprise, the second transfer date,or, if later, the date thirty clear days after that on which the offer is made,
  - (c) where it is an offer whose recipient has elected secondment under sub-paragraph (6) above, shall not be revocable during the period of secondment (though it shall be superseded by any subsequent such offer to him).
- (8) Any such subsequent written notice as is referred to in sub-paragraph (1) above shall for the purposes of that sub-paragraph be disregarded if the person is, at the time of giving it, no longer an employee of the Scottish Development Agency or as the case may be of the Highlands and Islands Development Board or the Training Agency.

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- 17 (1) Where a person becomes an employee of Scottish Enterprise or Highlands and Islands Enterprise in consequence of his acceptance of an offer made under sub-paragraph (1) of paragraph 16 above, then, for the purposes of [<sup>F6</sup>the Employment Rights Act 1996], his period of employment in the Scottish Development Agency (including any period of employment in the Scottish Industrial Estates Corporation or the Small Industries Council for Rural Areas of Scotland which, under paragraph 6 of Schedule 3 to the <sup>M1</sup>Scottish Development Agency Act 1975, falls to be regarded as continuous with that period of employment) or as the case may be in the Highlands and Islands Development Board or the civil service of the State shall count as a period of employment in Scottish Enterprise or as the case may be Highlands and Islands Enterprise; and the change of employment shall not break the continuity of the period of employment.
- (2) Where a person receives an offer under head (a)(i) or (b)(i) of sub-paragraph (1) of paragraph 16 above (whether or not by virtue of the exception to that sub-paragraph), none of the agreed redundancy procedures applicable to an employee of the Scottish Development Agency, or as the case may be of the Highlands and Islands Development Board, shall apply to him; and where the person ceases to be such an employee—
- (a) on becoming an employee of Scottish Enterprise or Highlands and Islands Enterprise in consequence of that paragraph; or
- (b) having unreasonably refused the offer,
- <sup>F7</sup> . . . he shall not be treated for the purposes of any scheme provided or maintained by virtue of paragraph 10(2) of Schedule 1 to the Scottish Development Agency Act 1975 or paragraph 14(1)(b) of Schedule 1 to the <sup>M2</sup>Highlands and Islands Development (Scotland) Act 1965, as having been retired on redundancy.
- (3) A person who ceases to be an employee of the Training Agency on becoming an employee of Scottish Enterprise or Highlands and Islands Enterprise by virtue of paragraph 16 above, shall not be treated, for the purposes of any scheme under section 1 of the <sup>M3</sup>Superannuation Act 1972, as having been retired on redundancy.

#### Textual Amendments

- F6** Words in [Sch. 1 para. 17\(1\)](#) substituted (22.8.1996) by [1996 c. 18, ss. 240, 243, Sch. 1 para. 46](#) (with [ss. 191-195, 202](#)).
- F7** Words in [Sch. 1 para. 17\(2\)](#) repealed (22.8.1996) by [1996 c. 18, ss. 242, 243, Sch. 3 Pt. I](#) (with [ss. 191-195, 202](#)).

#### Marginal Citations

- M1** [1975 c. 69](#).
- M2** [1965 c. 46](#).
- M3** [1972 c. 11](#).

- 18 (1) Any dispute as to whether an offer under sub-paragraph (1) of paragraph 16 above complies with sub-paragraph (3) of that paragraph shall be referred to and be determined by an [<sup>F8</sup>employment tribunal].
- (2) An [<sup>F8</sup>employment tribunal] shall not consider a complaint referred to it under sub-paragraph (1) above unless the complaint is presented to the tribunal before the end of the period of three months beginning with the date on which the offer is made or within such further period as the tribunal considers reasonable in a case where

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satisfied that it was not reasonably practicable for the complaint to be presented before the end of the period of three months.

- (3) Subject to sub-paragraph (4) below, there shall be no appeal from the decision of an [F8 employment tribunal] under this paragraph.
- (4) An appeal to the Employment Appeal Tribunal may be made only on a question of law arising from the decision of, or in proceedings before, an [F8 employment tribunal] under this paragraph.

#### Textual Amendments

- F8** Words in [Sch. 1 para. 18](#) substituted (1.8.1998) by [1998 c. 8, s. 1\(2\)\(a\)](#) (with [s. 16\(2\)](#)); [S.I. 1998/1658, art. 2\(1\)](#), [Sch. 1](#)

#### *Proceedings*

- 19 The quorum of each body, and the arrangements for its meetings, shall be such as the body in question may determine.
- 20 (1) A member of either body who is directly or indirectly interested in—
  - (a) a contract made or proposed to be made by it; or
  - (b) any other matter whatsoever which falls to be considered by it,shall as soon as is practicable disclose the nature of his interest at a meeting of the body; and the disclosure shall be recorded in the minutes of the meeting.
  - (2) In the case mentioned in—
    - (a) head (a) of sub-paragraph (1) above, the member shall not take part in any deliberation or decision of the body with respect to the contract;
    - (b) head (b) of that sub-paragraph, the member shall not take part in any deliberation or decision of the body with respect to the matter if the body decides that the interest in question might affect prejudicially his consideration of the matter.
  - (3) For the purposes of this paragraph, a notice to the effect that a person is a member of a specified body corporate or firm and is to be regarded as interested in any contract which is made with the body corporate or firm after the date of the notice, and in any other matter whatsoever concerning the body corporate or firm which falls to be considered after that date, shall if given at a meeting of Scottish Enterprise or Highlands and Islands Enterprise be a sufficient disclosure of the person's interest to Scottish Enterprise or as the case may be Highlands and Islands Enterprise.
  - (4) For the purposes of this paragraph disclosure at a meeting may be made without the attendance in person of the member in question provided that he takes reasonable steps to secure that the matter disclosed is in a notice taken into consideration at the meeting.
- 21 The validity of any proceedings of either body shall not be affected by any vacancy among its members or by any defect in the appointment of a member or by any failure to comply with any requirement of paragraph 20 above.

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*Committees*

- 22 (1) For or in connection with the discharge of its general functions or the exercise of its powers either body may establish such committees (whose members need not be members of the body in question) as appear to it to be appropriate; and the composition and remit of committees so established and the terms on which members of such committees hold office shall be determined by the establishing body.
- (2) A body establishing a committee under sub-paragraph (1) above shall pay to members of the committee who are not members of the body travelling and other allowances, including compensation for loss of remunerative time, in accordance with such arrangements as may be determined by the Secretary of State<sup>F9</sup> . . .

**Textual Amendments**  
**F9** Words in [Sch. 1 para. 22\(2\)](#) repealed (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, [Sch. 2 Pt. I para. 100\(8\)](#), Pt. IV

*Execution of Documents*

<sup>F10</sup>23 . . . . .

**Textual Amendments**  
**F10** [Sch. 1 para. 23](#) repealed (1.8.1995) by [1995 c. 7](#), ss. 14(2), 15(2), [Sch. 5](#) (with ss. 9(3)(5)(7), 13, 14(3)).

SCHEDULE 2

Section 25

FINANCIAL PROVISIONS RELATING TO SCOTTISH ENTERPRISE

*Financing of Scottish Enterprise*

- 1 The Secretary of State may, out of money provided by Parliament and subject to such conditions as he thinks fit to impose, pay such sums to Scottish Enterprise—
  - (a) in respect of the exercise of its functions, and
  - (b) in respect of its administrative expenses,
 as he may<sup>F11</sup> . . .determine.

**Textual Amendments**  
**F11** Words in [Sch. 2 para. 1](#) repealed (1.7.1999) by [S.I. 1999/1820](#), arts. 1(2), 4, [Sch. 2 Pt. I para. 100\(9\)](#), Pt. IV

*Borrowing powers and government loans*

- 2 (1) For the purpose of the exercise of any of its functions Scottish Enterprise—
  - (a) may, subject to such conditions as<sup>F12</sup> . . .the Secretary of State thinks fit to impose, borrow from him, and he may lend to it out of money provided by



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Parliament, sums of such amounts as he may, with such consent, determine; and

- (b) may, with the consent of the Secretary of State<sup>F12</sup> . . . borrow money, whether in sterling or otherwise, from any other person or body, whether in the United Kingdom or elsewhere.

- (2) Scottish Enterprise may borrow money from any of its wholly-owned subsidiaries without obtaining the consent of the Secretary of State.

#### Textual Amendments

**F12** Words in Sch. 2, para. 2(a)(b) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. 1 para. 100(9), Pt. IV

- 3 Any loans made in pursuance of paragraph 2(1)(a) above shall be repaid to the Secretary of State at such times and by such methods, and interest on the loans shall be paid to him at such times and at such rates, as he may from time to time<sup>F13</sup> . . . direct; and all sums received by the Secretary of State in pursuance of this paragraph shall be paid into the Consolidated Fund.

#### Textual Amendments

**F13** Words in Sch. 2 para. 3 repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. 1 para. 100(9), Pt. IV

#### *Borrowing by wholly owned subsidiaries*

- 4 It shall be the duty of Scottish Enterprise to secure that no wholly owned subsidiary of that body borrows money otherwise than from the body, or from another wholly owned subsidiary of the body, except with the consent of the Secretary of State<sup>F14</sup> . . .

#### Textual Amendments

**F14** Words in Sch. 2 para. 4 repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2 Pt. 1 para. 100(9), Pt. IV

#### *Guarantees*

- 5 (1) The Secretary of State may<sup>F15</sup> . . . guarantee, in such manner and on such conditions as he thinks fit, the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any sums which Scottish Enterprise borrows from a person other than the Secretary of State.
- (2) Immediately after a guarantee is given under this paragraph, the Secretary of State shall lay a statement of the guarantee before each House of Parliament; and where any sum is issued for fulfilling a guarantee so given, he shall lay before each House of Parliament a statement relating to that sum, as soon as possible after the end of each financial year, beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged.

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- (3) Any sums required by the Secretary of State for fulfilling a guarantee under this paragraph shall be paid out of money provided by Parliament.
- (4) If any sums are issued by the Secretary of State in fulfilment of a guarantee given by him under this paragraph, or by the Treasury under paragraph 6 of Schedule 2 to the <sup>M4</sup>Scottish Development Agency Act 1975, Scottish Enterprise shall make to him at such time and in such manner as <sup>F15</sup> . . . he from time to time directs, payments of such amounts as, with such consent, he so directs in or towards repayment of the sums so issued and payments of interest, at such rate as, with such consent, he so directs, on what is outstanding for the time being in respect of sums so issued.
- (5) Any sums received by the Secretary of State in pursuance of sub-paragraph (4) above shall be paid into the Consolidated Fund.

#### Textual Amendments

**F15** Words in Sch. 2, para. 5(1) and (4) repealed (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, Sch. 2, Pt. I, para. 100(9), Pt. IV

#### Marginal Citations

**M4** 1975 c. 69.

#### *Payments by Scottish Enterprise*

- 6 (1) The Secretary of State may from time to time, after consultation with Scottish Enterprise, direct it to pay to him, on a date specified in the direction, such sum as may be so specified, being a sum not required for the exercise of its functions nor apart from this sub-paragraph payable under or by virtue of any provision of this Act.
- (2) Any sum received by the Secretary of State by virtue of sub-paragraph (1) above shall be paid into the Consolidated Fund.

### SCHEDULE 3

Section 23(4)

#### TRANSITIONAL PROVISIONS AND SAVINGS

##### *Constitution of the Scottish Development Agency*

- 1 During the Scottish Development Agency's transitional period, section 1(2) of the Scottish Development Agency Act 1975 (constitution of the Agency) shall have effect as if for the word "eight" there were substituted the word "three".

##### *Vesting of existing bodies' foreign property in Scottish Enterprise or Highlands and Islands Enterprise*

- 2 (1) It shall be the duty of each existing body and their successor to take, as and when during the existing body's transitional period the successor considers appropriate, all such steps as may be requisite to secure that the vesting in the successor, by virtue of section 22(1) of this Act or this paragraph, of any foreign property, right or liability is effective under the relevant foreign law.

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- (2) During their transitional period, until such vesting as is mentioned in sub-paragraph (1) above in their successor is effective in foreign law, it shall be the duty of each existing body to hold the property or right in question for the benefit of, or to discharge the liability on behalf of, the successor.
- (3) Nothing in sub-paragraph (1) and (2) above shall be taken as prejudicing the effect under the law of the United Kingdom or of any part of the United Kingdom of such vesting as is so mentioned.
- (4) Each existing body shall have all such powers as may be requisite for the performance of their duty under this paragraph, but—
  - (a) it shall be the duty of their successor during the existing body's transitional period to act on their behalf (so far as possible) in performing the duty imposed on the existing body by this paragraph; and
  - (b) any foreign property, right or liability acquired or incurred by the existing body during that period shall immediately become the property, right or liability of their successor.
- (5) References in this paragraph to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of private international law) by reference to the law of a country or territory outwith the United Kingdom.
- (6) Any expenses incurred by an existing body under this paragraph shall be met by their successor.

#### *Other property*

- 3 The repeal by this Act of section 15(1) and (3) to (5) of the <sup>M5</sup>Scottish Development Agency Act 1975 (transfer of property, rights and liabilities of certain bodies to the Agency) does not affect—
  - (a) the title of Scottish Enterprise to land vested in it by virtue of section 22 of this Act; or
  - (b) any rights, liabilities or obligations relating to any such land and in existence immediately before that repeal took effect.

#### **Marginal Citations**

**M5** 1975 c. 69.

#### *Delegation*

- 4 Section 19 of this Act (in this paragraph referred to as the “relevant section”) shall—
  - (a) until the first transfer date, have effect in relation to the Scottish Development Agency as the relevant section has effect (or as the case may be is to have effect) in relation to Scottish Enterprise, except that the reference in paragraph (c) of subsection (2) of the relevant section to section 8(11) of this Act shall be construed as a reference to section 9(3) of the Scottish Development Agency Act 1975 (attraction of provisions relating to acquisition of land) and that paragraph (a) of the said subsection (2) shall be disregarded; and

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- (b) until the second transfer date, have effect in relation to the Highlands and Islands Development Board as the relevant section has effect (or as the case may be is to have effect) in relation to Highlands and Islands Enterprise, except that any reference in subsection (1) of the relevant section to functions shall be construed as a reference to duties under paragraph (c) of section 3(1) of the <sup>M6</sup>Highlands and Islands Development (Scotland) Act 1965 (measures to implement certain proposals) and that paragraphs (a) and (b) of subsection (2) of the relevant section shall be disregarded.

**Marginal Citations**

**M6** 1965 c. 46.

*Assistance*

- 5 Section 19 of the <sup>M7</sup>Scottish Development Agency Act 1975 shall cease to have effect but section 20 of this Act (in this paragraph referred to as the “relevant section”) shall—
- (a) until the first transfer date, have effect in relation to the Scottish Development Agency as the relevant section has effect (or as the case may be is to have effect) in relation to Scottish Enterprise, except that the reference in subsection (1)(a) of the relevant section to paragraphs (d) to (h) of section 4(1) of this Act shall be construed as a reference to paragraphs (c) to (e) and (g) to (i) of section 2(2) of the said Act of 1975;
- (b) until the second transfer date, have effect in relation to the Highlands and Islands Development Board as the relevant section has effect (or as the case may be is to have effect) in relation to Highlands and Islands Enterprise, except that the reference in subsection (1)(b) of the relevant section to paragraphs (c) to (e) of section 5(1) of this Act shall be construed as a reference to paragraph (c) of section 3(1) of the Highlands and Islands Development (Scotland) Act 1965,
- with subsection (2) of the relevant section being construed accordingly and subsection (3) thereof being construed as if at the end there were added the words “ (whether or not by virtue of paragraph 4 of Schedule 3 to this Act) ”.

**Marginal Citations**

**M7** 1975 c. 69.

*Effect of, and interpretation of, agreements etc.*

- 6 Any agreement made, transaction effected or other thing done by, to or in relation to—
- (a) the Scottish Development Agency which is in force or effective immediately before the first transfer date; or
- (b) the Highlands and Islands Development Board which is in force or effective immediately before the second transfer date,
- shall have effect as if made, effected or done by, to or in relation to the body in question’s successor, in all respects as if the successor were the same person in law

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*Changes to legislation: There are currently no known outstanding effects for the Enterprise and New Towns (Scotland) Act 1990. (See end of Document for details)*

as that body; and accordingly references to the Agency or as the case may be to the Board—

- (i) in any agreement (whether or not in writing) and in any deed, bond or instrument;
  - (ii) in any process or other document issued, prepared or employed for the purposes of any proceedings before any court or other tribunal or authority; and
  - (iii) in any other document whatsoever (other than an enactment) relating to or affecting any property, right or liability of the body in question which is transferred by this Act,
- shall be taken as referring to that body's successor.

#### *Pensions*

7 Any arrangements made—

- (a) by the Scottish Development Agency under paragraph 10(2) of Schedule 1 to the <sup>M8</sup>Scottish Development Agency Act 1975 for the payment of pensions shall be treated on and after the first transfer date (so far as may be necessary to preserve their effect) as having been made by Scottish Enterprise under paragraph 15(2) of Schedule 1 to this Act;
- (b) by the Highlands and Islands Development Board under paragraph 14(1) (b) of Schedule 1 to the <sup>M9</sup>Highlands and Islands Development (Scotland) Act 1965 shall be treated on and after the second transfer date (so far as may be necessary to preserve their effect) as having been made by Highlands and Islands Enterprise under the said paragraph 15(2),

and any pension scheme established and administered by either of the existing bodies shall be deemed to be a pension scheme established and administered by their successor under the said paragraph 15(2) and shall continue to be administered accordingly.

#### **Marginal Citations**

- M8** 1975 c. 69.  
**M9** 1965 c. 46.

#### *Compensation Payments*

- 8 (1) Where any regulations made under paragraph 3 of Schedule 3 to the Scottish Development Agency Act 1975 (compensation for certain persons) are in force immediately before the first transfer date, those regulations shall continue in force (subject to the following provisions of this paragraph) notwithstanding the repeal by this Act of that Schedule.
- (2) Any reference to the Scottish Development Agency in any regulations continued in force by virtue of sub-paragraph (1) above shall have effect, as respects anything falling to be done or occurring on or after that day, as if it were a reference to Scottish Enterprise.
- (3) Any regulations continued in force by virtue of sub-paragraph (1) above may be amended or revoked in like manner as if section 26 of the said Act of 1975 and paragraphs 3 to 5 of Schedule 3 to that Act had not been repealed (but any reference

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in those provisions to the Agency shall, unless the context otherwise requires, be construed as a reference to Scottish Enterprise).

*Final reports and accounts of the existing bodies etc.*

- 9 (1) Notwithstanding the repeal by this Act of section 3(1)(e) and (3) of the Highlands and Islands Development (Scotland) Act 1965 (reports to Secretary of State)—
- (a) it shall continue, in accordance with the provisions of the said section 3(1)(e) and (3), to be the duty of the Highlands and Islands Development Board to make a report to the Secretary of State in respect of each calendar year ending before the second transfer date and of the Secretary of State to lay a copy of any such report before each House of Parliament; and
  - (b) the said provisions shall also apply as respects the period between the end of the calendar year in question and that transfer date as if the transfer date were the last day of the subsequent calendar year.
- (2) Notwithstanding the repeal by this Act of section 13 of the said Act of 1965 (accounts etc.)—
- (a) it shall continue, in accordance with the provisions of that section, to be the duty of the Highlands and Islands Development Board to keep such accounts and other records as are, and to prepare in respect of each financial year ending before the second transfer date such statement of account as is, mentioned in subsection (1) of that section and to submit the statement of account to the Secretary of State, of the Secretary of State to transmit the statement of account to the Comptroller and Auditor General and of the Comptroller and Auditor General to examine and certify the statement of account and lay before Parliament copies of it with his report on it; and
  - (b) the said provisions shall also apply as respects the period between the end of the financial year in question and that transfer date as if the transfer date were the last day of the subsequent financial year.
- (3) Notwithstanding the repeal by this Act of paragraph 9 of Schedule 2 to the<sup>M10</sup>Scottish Development Agency Act 1975 (annual report to Secretary of State)—
- (a) it shall continue, in accordance with the provisions of that paragraph, to be the duty of the Scottish Development Agency to make a report to the Secretary of State in respect of each financial year ending before the first transfer date and of the Secretary of State to lay a copy of any such report before each House of Parliament; and
  - (b) the said provisions shall also apply as respects the period between the end of the financial year in question and that transfer date as if the transfer date were the last day of the subsequent financial year.
- (4) Notwithstanding the repeal by this Act of paragraph 8 of the said Schedule 2 (accounts of the Agency etc.)—
- (a) it shall continue, in accordance with the provisions of that paragraph, to be the duty of the Scottish Development Agency to keep such accounts and other records as are, and to prepare in respect of each financial year ending before the first transfer date such statement of account as is, mentioned in sub-paragraph (1) of that paragraph and to submit the statement of account to the Secretary of State, of the Secretary of State to transmit the statement of account to the Comptroller and Auditor General and of the Comptroller and Auditor General to examine and certify the statement of account and lay before Parliament copies of it with his report on it; and

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- (b) the said provisions shall also apply as respects the period between the end of the financial year in question and that transfer date as if the transfer date were the last day of the subsequent financial year.
- (5) Notwithstanding the repeal by this Act of sub-paragraph (4) of paragraph 1 and of sub-paragraph (3) of paragraph 4 of the said Schedule 2 (account of certain sums issued out of National Loans Fund etc.)—
- (a) it shall continue, in accordance with the provisions of those sub-paragraphs, to be the duty of the Secretary of State to prepare an account of the sums issued by him under sub-paragraph (1) of, and received by him under sub-paragraph (2) of, the said paragraph 4 in respect of each financial year ending before the first transfer date and to include in that account particulars of the sums which in the year in question were paid to the Scottish Development Agency or into the Consolidated Fund in pursuance of the said paragraph 1; and
- (b) the said provisions shall also apply as respects the period between the end of the financial year in question and that transfer date as if the transfer date were the last day of the subsequent financial year.
- (6) Any expenses incurred by an existing body by virtue of this paragraph shall be met by their successor.

**Marginal Citations**

**M10** 1975 c. 69.

SCHEDULE 4

Section 38(1)

MINOR AND CONSEQUENTIAL AMENDMENTS

*New Towns (Scotland) Act 1968 (c. 16.)*

- 1 In the New Towns (Scotland) Act 1968—
- (a) in section 46(6) (regulations and orders) for the words “36(4)” there shall be substituted the words “ 36E ” ;
- (b) in section 47(1) (interpretation) there shall be inserted at the appropriate places the following definitions—
- ““transfer order” means an order under section 36D(1) of this Act;”;
- and
- ““winding up order” means an order under section 36(1) of this Act;”.

*Finance Act 1969 (c. 32.)*

- 2 In section 58(4)(c) of the Finance Act 1969 (cases in which information obtained for statistical purposes may be disclosed), in the Table—
- (a) for the words “The Scottish Development Agency.” and “The <sup>M11</sup>Scottish Development Agency Act 1975.” there shall be substituted, respectively,



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*Changes to legislation: There are currently no known outstanding effects for the Enterprise and New Towns (Scotland) Act 1990. (See end of Document for details)*

- the words “ Scottish Enterprise. ” and “ Part I of the Enterprise and New Towns (Scotland) Act 1990. ” ; and
- (b) for the words “The Highlands and Islands Development Board.” and “The Highlands and Islands Development (Scotland) Acts 1965 and 1968.” there shall be substituted, respectively, the words “ Highlands and Islands Enterprise. ” and “ Part I of the Enterprise and New Towns (Scotland) Act 1990. ”.

#### Marginal Citations

M11 1975 c. 69.

#### *Post Office Act 1969 (c. 48.)*

- 3 In Schedule 4 to the Post Office Act 1969, in paragraph 93(1) (interpretation), after head xxxiv there shall be added the following head—  
“(xxxv) Section 9 of the Enterprise and New Towns (Scotland) Act 1990.”.

#### *Pensions Increase Act 1971 (c. 56.)*

- 4 In paragraph 38A of Part I of Schedule 2 to the Pensions (Increase) Act 1971 (State pensions), for the words “10 of Schedule 1” there shall be substituted the words “ 15(2) of Schedule 1 to the Enterprise and New Towns (Scotland) Act 1990 (as read with paragraph 7 of Schedule 3 to that Act) ”.

#### *Offshore Petroleum Development (Scotland) Act 1975 (c. 8.)*

- 5 In section 10 of the Offshore Petroleum Development (Scotland) Act 1975 (execution of works and disposal of land held under that Act)—
- (a) in subsection (3), for the words “The Scottish Development Agency” there shall be substituted the words “ Scottish Enterprise, Highlands and Islands Enterprise ”; and
- (b) in subsection (4)—
- (i) for the words “the Scottish Development Agency” there shall be substituted the words “ Scottish Enterprise, by Highlands and Islands Enterprise ”; and
- (ii) after the words “performed by” there shall be inserted the words “ it or ”.

#### *House of Commons Disqualification Act 1975 (c. 24.)*

- 6 In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified for membership of House of Commons)—
- (a) after the words “The Highlands and Islands Development Board.” there shall be inserted the words “ Highlands and Islands Enterprise. ” ; and
- (b) after the words “The Scottish Development Agency.” there shall be inserted the words “ Scottish Enterprise. ”.



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*Changes to legislation: There are currently no known outstanding effects for the Enterprise and New Towns (Scotland) Act 1990. (See end of Document for details)*

*Farriers Registration Act 1975 (c. 35.)*

- 7 In Part I of Schedule 1 to the Farriers Registration Act 1975 (constitution of Farriers Registration Council), in paragraph 1(f), for the words “The Scottish Development Agency” there shall be substituted the words “ Scottish Enterprise ”.

*Scottish Development Agency Act 1975 (c. 69.)*

F168 .....

**Textual Amendments**

- F16** Sch. 4 para. 8 repealed (1.8.2010) by Public Services Reform (Scotland) Act 2010 (asp 8), ss. 5(3), 134(7); S.S.I. 2010/221, art. 3(2), Sch.

*Highlands and Islands Air Services (Scotland) Act 1980 (c. 19.)*

- 9 In section 3 of the Highlands and Islands Air Services (Scotland) Act 1980 (interpretation), for the definition of “the Highlands and Islands” there shall be substituted the following definition—  
“the Highlands and Islands” shall be construed in accordance with section 21(1) of the Enterprise and New Towns (Scotland) Act 1990. ”.

*Agricultural Training Board Act 1982 (c. 9.)*

F1710 .....

**Textual Amendments**

- F17** Sch. 4 para. 10 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 2 Group 2

*Industrial Training Act 1982 (c. 10.)*

- 11 In section 5(3)(e) of the Industrial Training Act 1982 (power of industrial training board to take part in arrangements in pursuance of Employment and Training Act 1973), after the words “1973” there shall be inserted the words “ or of section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 ”.

*Civil Aviation Act 1982 (c. 16.)*

- 12 In Schedule 2 to the Civil Aviation Act 1982, in paragraph 4 (interpretation), at the end there shall be added the following head—  
“section 9 of the Enterprise and New Towns (Scotland) Act 1990”.

*Local Government and Planning (Scotland) Act 1982 (c. 43.)*

- 13 In section 8 of the Local Government and Planning (Scotland) Act 1982 (power of local authority to enter into arrangements under Employment and Training Act 1973), the words from “shall”, where it first occurs, to “1973” shall be paragraph (a); and after that paragraph there shall be inserted the word “ and ” and the following paragraph—

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- “(b) shall have power to take part in any arrangements made in pursuance of section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 (which relates to arrangements made by Scottish Enterprise and by Highlands and Islands Enterprise for persons to train for employment etc.).”.

*Gas Act 1986 (c. 44.)*

- 14 In Schedule 7 to the Gas Act 1986—
- (a) in paragraph 2(1) (interpretation), at the end there shall be added the following head—
- “(xlix) section 9 of the Enterprise and New Towns (Scotland) Act 1990.”; and
- (b) in paragraph 2(9) (interpretation) after head (j) there shall be inserted the following head—
- “(k) section 9 of the Enterprise and New Towns (Scotland) Act 1990.”.

*Income and Corporation Taxes Act 1988 (c. 1.)*

<sup>F18</sup>15 .....

**Textual Amendments**

**F18** Sch. 4 para. 15 repealed (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 3](#) (with [Sch. 2](#))

*Employment Act 1988 (c. 19.)*

- 16 In section 26(1) of the Employment Act 1988 (status of trainees)—
- (a) after the word “Act” there shall be inserted the words “, or under section 2(3) of the Enterprise and New Towns (Scotland) Act 1990, ”; and
- (b) for the words “that section” there shall be substituted the words “ the said section 2, or as the case may be the said section 2(3), ”.

*Electricity Act 1989 (c. 29.)*

- 17 In Schedule 16 to the Electricity Act 1989—
- (a) in paragraph 1(1) (interpretation), at the end there shall be added the following head—
- “(xlii) section 9 of the Enterprise and New Towns (Scotland) Act 1990.”; and
- (b) in paragraph 3(2) (interpretation), after head (h) there shall be inserted the following head—
- “(i) section 9 of the Enterprise and New Towns (Scotland) Act 1990.”.

*Status: Point in time view as at 01/07/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Enterprise and New Towns (Scotland) Act 1990. (See end of Document for details)*

*Employment Act 1989 (c. 38.)*

- 18 In section 8(1) of the Employment Act 1989 (power to exempt discrimination in favour of lone parents in connection with training)—
- (a) in paragraph (a), after the word “training” there shall be inserted the words “ or under section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 (arrangements by Scottish Enterprise and Highlands and Islands Enterprise in connection with training etc.) ”; and
  - (b) in paragraph (b), for the words “that section” there shall be substituted the words “ either of those sections ”.

SCHEDULE 5

Section 38(2)

REPEALS

PART I

REPEALS COMING INTO FORCE ON FIRST TRANSFER DATE

**Commencement Information**

- II** By an Order dated 1.3.1991, made by the Secretary Of State, 1.4.1991 was appointed as both the first transfer date and the second transfer date for the purposes of S. 22(1)

Chapter	Short title	Extent of repeal
1968 c. 16.	The New Towns (Scotland) Act 1968.	In each of sections 36B(1) and 36D(1) and (2)(b) the words “the Scottish Development Agency,”.
1973 c. 50.	The Employment and Training Act 1973.	In section 4, in subsection (3) (e) the words “the Scottish Development Agency”; and in subsection (5), paragraph (dd) (as inserted by section 11(6)(b) of the Scottish Development Agency Act 1975 and not as inserted by section 24(6)(b) of the Welsh Development Agency Act 1975).
1975 c. 69.	The Scottish Development Agency Act 1975.	The whole Act except sections 1, 20 and 28 and paragraphs 1 to 6, 11 to 14, 16 and 17 of Schedule 1.
1978 c. 44.	The Employment Protection (Consolidation) Act 1978.	In Schedule 16, paragraph 21.

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*Changes to legislation: There are currently no known outstanding effects for the Enterprise and New Towns (Scotland) Act 1990. (See end of Document for details)*

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1979 c. 32.	The Industry Act 1979.	In so far as relating to the Scottish Development Agency Act 1975.
1980 c. 19.	The Highlands and Islands Air Services (Scotland) Act 1980.	Section 4.
1980 c. 33.	The Industry Act 1980.	Sections 1(2), 4(2), 6(2) and 22(2).  In so far as relating to the Scottish Development Agency Act 1975 or to the Scottish Development Agency, sections 2(1) to (3), 5(1), 6(4), 8(2), 9 and 21(2).  In Schedule 2, the entry relating to the Scottish Development Agency Act 1975.
1981 c. 6.	The Industry Act 1981.	Sections 2(1), 3(2)(b), 4(2)(a) and 7(4).  In section 3(1), the words “, that of the Scottish Development Agency by £7 million”.  Section 4(1) in so far as relating to the Scottish Development Agency.
1982 c. 43.	The Local Government and Planning (Scotland) Act 1982.	In Part II of Schedule 4, the entry relating to the Scottish Development Agency Act 1975.
1983 c. 29.	The Miscellaneous Financial Provisions Act 1983.	In Schedule 2, the entry relating to the Scottish Development Agency Act 1975.
1984 c. 12.	The Telecommunications Act 1984.	In Schedule 4, paragraphs 3(1)(b) and 63.
1984 c. 46.	The Cable and Broadcasting Act 1984.	In Schedule 5, paragraph 32.
1985 c. 9.	The Companies Consolidation (Consequential Provisions) Act 1985.	In Schedule 2, the entry relating to the Scottish Development Agency Act 1975.
1986 c. 44.	The Gas Act 1986.	In Schedule 7, paragraph 2(1)(xxxi) and (9)(g).

*Status: Point in time view as at 01/07/2011.*

*Changes to legislation: There are currently no known outstanding effects for the Enterprise and New Towns (Scotland) Act 1990. (See end of Document for details)*

1986 c. 60.	The Financial Services Act 1986.	In Schedule 16, paragraph 11.  In Part I of Schedule 17, the entry relating to the Scottish Development Agency Act 1975.
1987 c. 56.	The Scottish Development Agency Act 1987.	The whole Act.
1989 c. 29.	The Electricity Act 1989.	In Schedule 16, paragraphs 1(1)(xxviii) and 3(2)(f).
1989 c. 38.	The Employment Act 1989.	In Schedule 6, paragraph 13.  In Part I of Schedule 7, the entry relating to the Scottish Development Agency Act 1975.
1989 c. 40.	The Companies Act 1989.	In Schedule 18, paragraph 12.

## PART II

### REPEALS COMING INTO FORCE ON DISSOLUTION OF SCOTTISH DEVELOPMENT AGENCY

Chapter	Short title	Extent of repeal
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the words “The Scottish Development Agency.”.
1975 c. 69.	The Scottish Development Agency Act 1975.	The whole Act except sections 20 and 28.

## PART III

### REPEALS COMING INTO FORCE ON SECOND TRANSFER DATE

#### Commencement Information

- I2** By an Order dated 1.3.1991, made by the Secretary Of State, 1.4.1991 was appointed as both the first transfer date and the second transfer date for the purposes of s. 22(1).

Chapter	Short title	Extent of repeal
1965 c. 46.	The Highlands and Islands Development (Scotland) Act 1965.	The whole Act except, in section 1, in subsection (1) the words from the beginning to ““the Board”” and subsections (4) and (5), section 19 and paragraphs 1,

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*Changes to legislation: There are currently no known outstanding effects for the Enterprise and New Towns (Scotland) Act 1990. (See end of Document for details)*

		2, 4, 5, 8 to 13, 15 and 16 of Schedule 1.
1967 c. 13.	The Parliamentary Commissioner Act 1967.	In Schedule 2, the words “Highlands and Islands Development Board.”.
1968 c. 51.	The Highlands and Islands Development (Scotland) Act 1968.	The whole Act.
1969 c. 48.	The Post Office Act 1969.	In Schedule 4, paragraph 93(1)(xxiv).
1973 c. 65.	The Local Government (Scotland) Act 1973.	In Schedule 27, paragraphs 160 and 161.
1982 c. 16.	The Civil Aviation Act 1982.	In Schedule 2, in paragraph 4, the words “section 10(4) of the Highlands and Islands Development (Scotland) Act 1965;”.
1982 c. 43.	The Local Government and Planning (Scotland) Act 1982.	In Part II of Schedule 4, the entry relating to the Highlands and Islands Development (Scotland) Act 1965.
1986 c. 44.	The Gas Act 1986.	In Schedule 7, paragraph 2(1)(xvi).
1989 c. 29.	The Electricity Act 1989.	In Schedule 16, paragraph 1(1)(xvi).

## PART IV

### REPEALS COMING INTO FORCE ON DISSOLUTION OF HIGHLANDS AND ISLANDS DEVELOPMENT BOARD

#### Commencement Information

**I3** Repeals in Sch. 5 Pt. IV wholly in force at 21.07.1992 see [ss. 23\(3\), 38\(2\)](#) and [S.I. 1992/1764](#).

Chapter	Short title	Extent of repeal
1965 c. 46.	The Highlands and Islands Development (Scotland) Act 1965.	The whole Act.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the words “The Highlands and Islands Development Board.”.

**Status:**

Point in time view as at 01/07/2011.

**Changes to legislation:**

There are currently no known outstanding effects for the Enterprise and New Towns (Scotland) Act 1990.